

February 3, 1999

Mr. Miles K. Risley  
Senior Assistant City Attorney  
Legal Department  
City of Victoria  
P.O. Box 1758  
Victoria, Texas 77902-1758



OFFICE OF THE  
ATTORNEY GENERAL  
STATE OF TEXAS

— \* —

JOHN CORNYN  
Attorney General

— \* —

P.O. Box 12548  
Austin, Texas  
78711-2548

(512) 463-2100  
[www.oag.state.tx.us](http://www.oag.state.tx.us)

OR99-0307

Dear Mr. Risley:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 121589.

The city of Victoria (the "city") received a request for "all records in your possession related to Ida Krhovjak." The request was made by an attorney representing an agent of Ida Krhovjak. You have supplied the responsive information. You contend that a portion of this information is excepted from public disclosure by Government Code sections 552.101 (in conjunction with The Medical Practices Act ("MPA") V.T.C.S. art. 4495b § 5.08) and 552.108. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." However, where the request is made for information that relates to the requestor, exceptions to public disclosure designed to protect the privacy of the requestor are not applicable. Open Records Decision 556 (1990) *see also* Govt. Code § 552.023. Further, while disclosure of medical records is prohibited by V.T.C.S. art. 4495b §5.08(b) and (c), those prohibitions, with some exceptions, do not apply to responses to requests made by the patient that is the subject of the records or by that patient's agent, provided the request and the release of information complies with the provisions of the MPA. V.T.C.S. art. 4495b § 5.08(g), (j).

You also urge section 552.108 of the Government Code. This provision, rather than protecting the privacy rights of individuals, protects the interests of law enforcement agencies in the detection, investigation or prosecution of crime. In pertinent part it reads:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or

prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

...

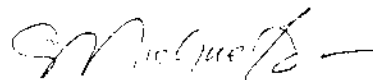
(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

You state that the requested information relates to case #9816086 which is currently being investigated. Based upon this representation, we conclude that the release of the information that was forwarded to the police department for investigation or that has been developed in the course of that investigation would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App. – Houston[14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W. 2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in *active* cases).

You indicate that you do not seek to withhold the information expressly made public under *Houston Chronicle*, and delineated in Open Records Decision No. 127 (1976). You must release this information, if you have not already done so. Although section 552.108(a)(1) authorizes you to withhold the remaining information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Michael Jay Burns  
Assistant Attorney General  
Open Records Division

MJB/ch

Ref: ID# 121589

Enclosures: Submitted documents

cc: Mr. Brandon Boehme  
6707 Brentwood, Suite 225  
Fort Worth, Texas 76112  
(w/o enclosures)